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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1958

No. — 630

GEUDER, PAESCHKE & FREY CO.,
a corporation,

Defendant-Petitioner,

vs.

J. R. CLARK COMPANY, a corporation,
& JOHN R. CLARK,

Plaintiffs-Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, entered in the above entitled case on October 10, 1958, and corrected in accordance with order entered October 16, 1958.

OPINIONS BELOW

The findings of the United States District Court for the Eastern District of Wisconsin are reported at 159 F. Supp. 948, 116 U.S.P.Q. 141. The opinion of the Court of Appeals for the Seventh Circuit is reported at 259 F. 2d 737, 119 U.S.P.Q. 161, and is reprinted in the Appendix hereto annexed.

JURISDICTION

The jurisdiction of this Court is invoked under 28 USC Sec. 1254(1) and Sec. 2101(c).

QUESTIONS PRESENTED

1. Did the Court of Appeals for the Seventh Circuit, in holding Claim 1 of the patent in suit valid and infringed, depart from the test for invention for a patented combination of old elements, to-wit, a finding by the trial court that the old elements which make up the claimed combination perform an additional and different function in combination than they perform out of it, and thereby conflicted with that rule which the Court of Appeals for the Ninth Circuit in *Kwikset Locks, Inc. v. Hillgren,* 210 F. 2d 483, at page 486, and *Bergman v. Aluminum Lock Shingle Corp. of America,* 251 F. 2d 801, 808, has held was established by this Court's decision in *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.,* 340 U.S. 147.

2. Did the Court of Appeals err in enlarging the scope of the claim in suit to find infringement by employing the doctrine of equivalents to construe equivocal language of the claim in suit since that doctrine is limited to preventing the practice of a fraud on a patent arising from a substitution for an element unambiguously described in a patent claim.

STATEMENT OF THIS CASE

This is a patent case involving only a single claim for an ironing table having a table top and a front and rear leg assembly for supporting the top located at an outer lateral edge of the table top.

Plaintiffs-Respondents (Clark) brought this action for infringement only of the broad first claim of the sixteen claims of Olander patent 2,663,102 (A. 131) (Note: references to record are identified as page in Joint Appendix filed herewith) for an ironing table, granted December 22, 1953 on an application filed June 9, 1950.

The structure recited in said Claim 1 (A. 142) is very simple and reads as follows:

> 1. In an ironing table having
>
> an elongated ironing board,
>
> a supporting structure for the board comprising
>
> a front leg member and a rear leg member respectively secured at longitudinally spaced points to the underside of the board and extending angularly downwardly to cross each other at a point above their longitudinal centers whereby the lower ends of the leg members will be spread further apart than their upper ends,
>
> said members consisting of single bars pivoted together at their intersection and
>
> with their parts above the intersection lying adjacent to the vertical longitudinal plane of one lateral edge of the board, and
>
> the lower ends of the leg members having rigid transverse extensions underlying the table to support the table against lateral tilting."

The District Court, after trial, without filing an opinion adopted the findings of fact and conclusions of law proposed by plaintiffs' attorneys without material change. Judgment was entered on December 19, 1957, holding Claim 1 a valid combination and infringed by the accused device. Appeal was taken to the Court of Appeals for the Seventh Circuit which affirmed the judgment of the District Court.

The Olander patent relates to ironing tables, particularly to the supporting structure for the table top. The primary objects as set forth in the patent (A. 139) are to provide a supporting structure which:

(a) firmly and rigidly supports the board;

(b) allows the operator more leg space under the board;

(c) is adjustable to regulate the elevation of the table top;

(d) may be easily collapsed against the underside of the board; and

(e) has a floor contact member which is easily detachable for shipment.

Claim 1 in suit, stripped of all formal verbiage, recites nothing more than the combination of an ironing board with single bar legs having transverse feet pivoted together at a point above their centers and with the upper portions lying adjacent to the vertical plane of one edge of the board.

Claim 1 does not recite the S-shaped legs employed in plaintiffs' Clark Model No. 10 for improving the rigidity of the supporting structure (A. 60, 61) nor does it recite a detachable foot member. The claim does not recite structure for adjusting the height of the ironing

table for stand-up and sit-down ironing, or for collapsing the leg structure flat against the table top. (A. 59, 60) As to the recited leg structure, the claim does not specify a construction to obtain room under the table, though, by the structure specified, object (b) of the five objects listed above, i.e., more leg room, is achieved.

Clark's commercial ironing table designated Model No. 10 (Pl. Ex. 10) was first displayed in January, 1953 to the public at the National Housewares Exhibit in Chicago. Defendant saw the No. 10 table at the Chicago showing and *prior to the issuance of the patent* developed the accused ironing table Model C-690 (Plaintiffs' Ex. 4 (A. 145)). The legs of the C-690 table are offset from the center of the board but not to an edge as in the Clark No. 10 table.

Claim 1 uses the term "adjacent" to define the location of the patented leg structure in respect to a lateral edge of the board. The patent specifications further state:

> "Fig. 2 is a bottom plan view of my improved ironing table with the *novel board supporting means* in collapsed position against the bottom of the board.
> * * *
>
> Fig. 10 is similar to Fig. 2 but shows a modified form of the invention with the removed foot member and the outline of a shipping carton in dotted lines." (Italics supplied) (A. 139-140)

Both Fig. 2 and Fig. 10 show that the vertical plane passing through the lateral edge of the plaintiffs' ironing board passes through a portion of the leg structure, a feature admittedly not present in any of the prior art or in the defendant's accused Model C-690, although the Mary Proctor prior art ironing board had moved the leg structure toward the lateral edge to obtain more knee

room when sitting at the board (A. 197) and it also was old to move the legs of a table slightly beyond the lateral edge. (A. 225)

The word "adjacent" means "close to" or "near to" and also means "contiguous" or "abutting". The case cited by the District Judge in Finding No. 24 (A. 121), *Johnston v. Davenport Brick & Tile Co.*, 237 F. 668, 669, contains the following quotation:

> "We realize that the word 'adjacent' does not at all times mean adjoining or abutting; but it is many times so used, and the purpose of its use is to be known from the context. Synonyms of the word are 'abutting', 'adjoining', 'attached', 'beside', 'bordering', 'close', 'contiguous', 'neighboring', 'next', and 'nigh'."

If "adjacent" be construed in the light of the specification and patent drawings, i.e., to indicate that the vertical plane passing through the outer lateral edge of the board also passes through a portion of the upper leg structure, there is no infringement. Petitioner, Geuder, Paeschke & Frey Co., developed its competitive Model C-690 ironing table and displayed it at the Atlantic City Housewares Exhibit in July, 1955 (A. 6), and commenced shipments on sales in October, 1953 (A. 13) before issuance of the patent in suit on December 22, 1953 when, for the first time, Claim 1 with the equivocal term "adjacent" to describe the location of the patented leg structure was made available to the public.

REASONS FOR GRANTING THE PETITION FOR WRIT OF CERTIORARI

The present petitioner as well as the public in general are entitled as business men to engage in active and unfettered competition with the plaintiffs, the owner of the

patent in suit, though not entitled to infringe a valid patent claim. However, when plaintiffs' patent issued, it was manifest that Claims 2 to 16, inclusive, were not infringed by the petitioner's Model C-690 ironing table, which was then being manufactured and sold. Claim 1, the sole claim in suit, defines a conglomeration of well-known elements, and by inference only claims one of the objectives specified in the patent, to-wit, the obtaining of greater leg room by one using the said board in a sitting position. This objective is achieved from the moving of the leg structure from the central area of the ironing board to an outer lateral edge.

1. This combination claim is valid only if the elements combined perform an additional and different function in combination than they perform out of it. A specific finding to this effect is a prerequisite when a combination patent claim is involved under *Great Atlantic & Pacific Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, as construed by the Court of Appeals for the Ninth Circuit in *Kwikset Locks, Inc. v. Hillgren*, 210 F. 2d 483, at 486, and *Bergman v. Aluminum Lock Shingle Corp. of America*, 251 F. 2d 801, at 808-809. No such finding was made by the trial court in this case, and the Court of Appeals for the Seventh Circuit neither followed nor commented on the construction of this court's decision by the Court of Appeals for the Ninth Circuit, which is as follows:

> "8. *In upholding the Patent, the District Court Failed to Make the Necessary Specific Finding of 'An Additional and Different Function in Combination'.*
>
> In the Kwikset Locks case, supra, 210 F. 2d at page 486, we pointed out that, in Atlantic & Pacific, supra, 'The Supreme Court further requires that in

order for a combination patent to be upheld, there must be a specific finding that the old elements which made up this device perform an additional and different function in combination, than they perform out of it.'

As in Kwikset Locks, 'No such finding was made in the case at bar.' Regardless of any other defect, such a lack makes it impossible for the present decree to be sustained." (Italics those of the Court of Appeals for the Ninth Circuit)

A mere cursory examination of the findings of the trial court (A. 115-125) and of the decision of the Court of Appeals (set forth in the Appendix to this petition) demonstrates that each, in support of the presumption of validity from issuance, leaned heavily on a long felt want and the commercial success enjoyed by the plaintiffs' Clark Model No. 10 which had numerous features, including features covered by other patents, not disclosed in the single Claim 1, here involved. Neither court attempted to find and, it is submitted, could not properly have found that the old elements which make up Claim 1 of plaintiffs' patent perform an additional and different function in combination than they performed out of it. Therefore, in view of this conflict between the Court of Appeals for the Ninth Circuit and the Court of Appeals for the Seventh Circuit, it is respectfully submitted this court should grant a writ of certiorari in this case.

2. When the plaintiffs' patent issued, the petitioner was already exhibiting and selling its Model C-690 ironing table which it had designed to compete with the plaintiffs' Clark Model 10 table.

In respect to the first claim, which alone is involved in this litigation, examination thereof disclosed that the plaintiffs had moved the leg structure described in said patent to the outer lateral edge of the table, thereby obtaining additional leg room. While prior art showed an offsetting of the leg structure from the center, no prior art showed the degree of offset employed by patentee Clark (A. 197). The word used in the claim to describe the location of this patented leg structure with reference to the outer lateral edge of the ironing board was "adjacent". Reference to any standard dictionary discloses that the term "adjacent" has two well established meanings, (1) "close to" and (2) "contiguous". In determining which meaning the patentee employed, the defendant is required to look first to the patent and the drawings. In this case Fig. 2 and Fig. 10 showed the leg structure *actually intersecting* the vertical plane passing through the outer lateral edge of the ironing table.

Moreover, patentee described this location of the leg structure shown in Fig. 2 of the patent as "the novel board supporting means in collapsed position against the bottom of the board." (A. 133; see also Fig. 10, A. 137) The leg structure in the defendant's Model C-690 is not so located. The patentee had no difficulty in describing the different location of the leg structure in defendant's accused Model C-690 ironing table, because in Claim 2 of the patent a portion of the leg structure is described as being in "a plane substantially parallel to but laterally offset from the median vertical longitudinal plane of the table." (A. 142)

As noted by the Court of Appeals for the Seventh Circuit in *Advance Rumley Co. v. John Lauson Mfg. Co.*, 275 F. 249, at 251, the patentee has the right to be his own

lexicographer and the court will unhesitatingly accept a definition of the patentee if ascertainable from the patent and if by doing so it can give better or more accurate effect to the claims. So in the instant case, the term "adjacent" in describing the location of the patented leg structure should be given a meaning consistent with the patent drawings and patentees' statement relative thereto upon which the public, including plaintiffs' competitors, must rely for the meaning of the words employed by patentee to delimit his claim.

The purpose of a patent claim is to define the addition to the stock of knowledge as to which patentee may claim a monopoly for the life of the patent. Thus also he apprises the public as to the limits beyond which they can engage in competition with the patented device without being guilty of trespass.

Moreover, when terms used in a patent claim are equivocal or ambiguous they should be limited so as to be consistent with the patentee's own statements and patent drawings. As stated by Professor Williston in his work on Contracts, Revised Edition, Volume 3, Section 621, at page 1788:

> "Since one who speaks or writes, can by exactness of expression more easily prevent mistakes in meaning, than one with whom he is dealing, doubts arising from ambiguity of language are resolved in favor of the latter."

The use by the Court of Appeals of the doctrine of equivalents which was reaffirmed in *Graver Tank & Mfg. Co., et al v. Linde Air Products Co.*, 339 U.S. 605, further illustrates the error inherent in that court's decision. The issue involves the construction of the term "adjacent". If "adjacent" means "contiguous" then there

is no infringement; if "close to", then infringement occurred if the claim is valid. The determining factor is the meaning to be given to the equivocal word "adjacent" in the light of the patentees' own statements, not whether the defendant has a competitive equivalent. To enlarge the claim under these circumstances by employing the doctrine of equivalents as a rule of construction not only avoids the constitutional test of invention but abrogates the right of a member of the public to rely on the patentees' own statements and drawings in respect to the area in which competition is not only favored but enjoined by Congressional enactments.

Under the judgment of the Court of Appeals for the Seventh Circuit the claim in suit loses all distinction from the prior art, as exemplified by the Mary Proctor board (A. 197), such that the public is denied the ability to know the limit of the patent monopoly.

CONCLUSION

In view of the foregoing, a writ of certiorari should issue to review the judgment of the Court of Appeals for the Seventh Circuit in the above entitled cause.

Respectfully submitted,

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January 5, 1959

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

OPINION OF THE

United States Court of Appeals

For the Seventh Circuit

No. 12301 SEPTEMBER TERM AND SESSION, 1958.

THE J. R. CLARK COMPANY and JOHN R. CLARK,
Plaintiffs-Appellees,
v.
GEUDER, PAESCHKE & FREY CO.,
Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Wisconsin.

October 10, 1958

(As corrected in accordance with order entered October 16, 1958)

Before DUFFY, *Chief Judge*, and FINNEGAN and KNOCH, *Circuit Judges.*

DUFFY, *Chief Judge.* This is a patent infringement suit. Claim I of Olander patent No. 2,663,102 is the only claim in issue.[1] This patent was granted December 22, 1953 on an application filed June 9, 1950. The District Court held that Claim I was valid and infringed.

[1] Claim 1 reads: In an ironing table having an elongated ironing board, a supporting structure for the board comprising a front leg member and a rear leg member respectively secured at longitudinally spaced points to the underside of the board and extending angularly downwardly to cross each other at a point above their longitudinal centers whereby the lower ends of the leg members will be spread further apart than their upper ends, said members consisting of single bars pivoted together at their intersection and with their parts above the intersection lying adjacent to the vertical longitudinal plane of one lateral edge of the board, and the lower ends of the leg members having rigid transverse extensions underlying the table to support the table against lateral tilting.

The patent in suit relates to ironing tables and is particularly directed to the supporting structure for the table top. The evidence disclosed the well-known fact that hand-ironing is a very tiring and disagreeable task for the housewife. The fatigue factor which results from hand-ironing has been the subject of scientific studies, and the industry was greatly interested in any device that would make hand-ironing less arduous.

The principal reason why hand-ironing was so tiring was that the housewife had to stand while ironing, or sit on a high stool with her knees either spread apart or twisted to one side because of the interfering leg structure of the ironing table. There are some types of ironing where the housewife prefers to stand, but usually ironing can be more comfortably accomplished while sitting, provided the table can easily be lowered to a level where the housewife can work from an ordinary chair, and provided the supporting structure is so designed that she can sit with her knees in a normal forward position and with the surface of the table brought completely over her lap so she need not bend forward while working.

Attempts were made before Olander to design ironing tables for ironing in a sitting position as is shown in patents issued to Clark, No. 2,494,506; Krueger, No. 2,566,668 and Michelson, No. 2,011,251. However, these patents did not solve the problem and there is no evidence that any tables or boards were constructed or sold which utilized the teachings of those patents.

The ironing table shown and described in the Olander patent in suit is known as Clark's Table No. 10, and is so constructed that it readily can be adjusted to various sit-down and stand-up positions to accommodate tall or short operators. The supporting structure includes pivotally connected single bar legs, the upper portions of which are disposed adjacent to the vertical plane of one lateral edge of the top. This provides knee and leg space and the top member can be positioned directly over the operator's lap. As the leg members are pivoted above their longitudinal centers, they span a wide floor area, and this forms a rigid supporting structure regardless of the elevation to which the table is adjusted. Another feature of the Clark Table No. 10 is that the entire supporting structure is collapsible

flatly against the underside of the ironing table for shipment or storage.

Olander filed his application in June, 1950, and the corporate plaintiff[2] made immediate plans to go into production and build up an inventory. The ironing table was first displayed to the public at the National Housewares Exhibit held in Chicago in January, 1953. The President and the Sales Manager of defendant each saw and examined plaintiffs' table and caused one to be purchased by defendant.

The design engineer of defendant was instructed to build an ironing table in competition with Clark's Table No. 10. The ironing table which was thereafter developed by defendant was known as Model C-690. Starting in June, 1953, this table was widely advertised, and was first sold by defendant in October, 1953. In its advertisements appearing in nationally distributed publications, defendant's Model C-690 was described as "sensational" and as a "radically new design." Model C-690 became defendant's most popular table in its high-priced line and completely displaced defendant's previous deluxe ironing table Model C-680. The accused structure is defendant's Model C-690.

Clark's Model No. 10 embodied the structure defined by Claim I. It also incorporated a diagonally crosswise leg structure contained in plaintiffs' companion patent, Olander No. 2,663,101 which was issued the same day as the patent in suit. This new model met with great commercial success. By September 30, 1956, more than a million of such ironing tables had been sold. For the first fiscal year after Model 10 was placed on the market, the sales were four times as great as the number of plaintiff's sales of its previous deluxe ironing table for a like period. Furthermore, Model 10 sold at a considerably higher price than any previous model of ironing table sold by plaintiffs.

Defendant argues that Claim I is invalid in that it reads upon the prior art and the Mary Proctor ironing table. The Mary Proctor Hi-Lo sit-down or stand-up ironing table was made by Proctor Electric Company and was

[2] Hereinafter, a reference to plaintiff will mean the corporate plaintiff.

offered for sale August 25, 1949. The principal prior art relied upon by defendant is Lowenberg Patent No. 1,976,031.

Lowenberg is a file wrapper reference and was considered by the patent office examiner. Lowenberg was a combination card table and bedside table. This structure was not intended as a solution of the problems involved in ironing clothes. The legs of the Lowenberg table are not pivotally connected at points above their longitudinal centers. These legs are not collapsibly arranged to perform the functions required in an ironing table. We agree with the District Court that the examiner who allowed the claim in suit was correct in rejecting Lowenberg as not being a pertinent reference.

We likewise agree with the statement of the District Judge that the Mary Proctor ironing table "not only does not suggest the invention of the patent in suit, but that as far as the structure defined by the Olander claim is concerned, the Mary Proctor ironing table is substantially identical with the Hild patent, No. 2,546,097, which the examiner considered and rejected, and is substantially identical with the Model C-680 ironing table which defendant previously sold and which was displaced by the infringing Model C-690 ironing table." This statement is substantially correct in spite of the fact that the legs of the C-680 table are located on center and the legs of the Mary Proctor table are located off center.

The claim in suit was allowed over the following prior art cited by the examiner: Tucker, 264,049; Northrup, 1,161,407; Reed, 1,359,527; Gomber, 1,801,151; Lowenberg, 1,976,031; Miller, 2,517,696; Hild, 2,546,097.

In addition to Lowenberg, defendant now cites and relies upon Busch No. 863,150 and Pope No. 1,098,682. We think Busch and Pope are no more pertinent to the invention shown by the claim in issue than references of record in the Olander file wrapper.

Oral testimony on the trial emphasized that Clark No. 10 Table which embodies the teachings of Claim I, was new and novel, and was a contribution to the art. Kleinsorge, who had forty years' experience in the ironing table business and was not connected with either party, testified

that the present invention was a "tremendous step forward in solving the problem," and that "it jarred the entire industry when they saw this table. I know it did me." Even defendant's sales manager, Stephany, testified: "I recall that it was one of the probably outstanding ironing tables or new ideas in ironing tables." Stephany also admitted that Clark Table No. 10 "* * may have speeded up our thinking on the problem * * * defendant had never thought of the C-690 until after we saw the Clark exhibit at the January 1953 Show."

We need say nothing further as to the prior art except to quote with approval Finding of Fact 23: "None of the prior art disclosures here in evidence in any way anticipates, nor does it show lack of invention in, the structure defined by Claim I of the patent in suit, nor would any of such disclosures have suggested the improved ironing table of said Claim I to a person skilled in the art at the time of the invention thereof by Olander."

The District Court found there was no file wrapper estoppel. On this appeal, defendant says it is not claiming file wrapper estoppel but does urge that the presumption of validity of Claim I does not apply to the Lowenberg file wrapper reference because of the conduct of the patentee in the prosecution of the application. Olander had rewritten Claim 15 as Claim 34 which claim, in turn became Claim I in suit. Defendant urges in effect that Claim I was allowed by oversight of the examiner. We think the prosecution of the Olander application followed normal procedure. There is nothing to indicate the examiner was not fully cognizant of the scope of Claim I.

We now reach the question of alleged infringement. Defendant brought out its table, C-690, only after its principal officers and certain of its employees had the benefit of a detailed inspection and study of plaintiff's Table No. 10. It is quite apparent that defendant endeavored to invent around the invention disclosed in the Clark Table. That defendant succeeded to a considerable degree may be inferred from the fact that of the sixteen claims of the patent in suit, only Claim I is alleged to be infringed by defendant's table.

Defendant's argument that Claim I was not infringed revolves about the word "adjacent" as used in said Claim,

to-wit: "* * * said (leg) members consisting of single bars pivoted together at their intersection and with their parts above the intersection lying *adjacent* to the vertical longitudinal plane of one lateral edge of the board * * *." Defendant argues that "adjacent" means "touching" and explains that in its structure there is a space of one inch between the outer edge of its board and the front leg of defendant's table.

Defendant urges that the word "adjacent" must be interpreted in the light of the specification. We find in the specification that the main position of the front leg 17 is described as being "in a vertical plane substantially coincident with the outer lateral edge of the board 16." Defendant strongly insists that the space of one inch between the leg member and the outer edge of its table prevents it from being "adjacent" or "substantially coincident" with said vertical plane.

The question of infringement is closer than the question of validity. However, we have concluded that the District Court was correct in its finding of infringement. A significant part of the specification hereinbefore described is the word "substantially." There is certainly more flexibility in the words "substantially coincident" than if the word "coincident" had been used alone.

Dimensions are not given in the patent, but in Clark Table No. 10 which is proportionately the same as in the patent drawing, the top is fourteen and a half inches wide, and the two single bar legs are of such thickness and so located as to leave eleven and a half inches of knee room under the operator's side of the board. In defendant's table, C-690, the leg bars are set in one inch from the front edge of the board, but a fifteen inch top member is employed. The result is that there are eleven and one-eighth inches of knee room for the operator. Practically the same result is achieved for there is only three-eighths of an inch difference in knee room or leg space between the two tables.

Pertinent here is language in the Supreme Court opinion in *Graver Tank & Mfg. Co., Inc. et al.* v. *Linde Air Products Co.*, 339 U.S. 605, 607:

"Outright and forthright duplication is a dull and very rare type of infringement. To prohibit no other would place the inventor at the mercy of verbalism and would be subordinating substance to form. * * *"

The opinion continues, page 608:

"The doctrine of equivalents evolved in response to this experience. The essence of the doctrine is that one may not practice a fraud on a patent. * * * 'To temper unsparing logic and prevent an infringer from stealing the benefit of an invention' a patentee may invoke this doctrine to proceed against the producer of a device 'if it performs substantially the same function in substantially the same way to obtain the same result.'"

We think there is substantial evidence to sustain the finding of the District Court that defendant's Model C-690 ironing table embodies many of the structural and functional advantages set forth in the Olander patent. The trial court was justified in finding that they are the same in essence and substance and consequently that Model C-690 ironing table infringes the claim in suit. Judgment

AFFIRMED.

A true Copy:

Teste:

.....

Clerk of the United States Court of Appeals for the Seventh Circuit.

JUDGMENT

United States Court of Appeals

For the Seventh Circuit

Chicago 10, Illinois

Friday, October 10, 1958

Before

Hon. F. Ryan Duffy, Chief Judge,

Hon. Philip J. Finnegan, Circuit Judge,

Hon. Win G. Knoch, Circuit Judge.

THE J. R. CLARK COMPANY and JOHN R. CLARK,
Plaintiffs-Appellees,
v.
GEUDER, PAESCHKE & FREY CO.,
Defendant-Appellant.

Appeal No. 12301

This cause came on to be heard on the transcript of the record from the United States District Court for the Eastern District of Wisconsin and was argued by counsel.

On consideration whereof it is ordered and adjudged by this Court that the Judgment of the said District Court in this cause appealed from be and the same is hereby affirmed with costs.